

REMARKS

Summary

Claims 1-19 pending and all of the claims were rejected in the Office action; Claims 5, 6, 15 and 19 have been amended. No new matter has been introduced. Claims 1-19 are pending after entry of this amendment. The Applicants have carefully considered the reasons advanced by the Examiner and respectfully traverse the rejections in view of the amendments and the discussion presented below.

Claim Rejections

35 U.S.C. § 112, second paragraph

Claims 5 and 6 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out the subject matter which the applicant regards as the invention. In particular, in Claim 5, the recitations of "the ball" and "the pin" are said to lack antecedent basis. In Claim 6, the recitation "the at least two balls and pins is" is said to contradict the recitation in Claim 1 of "at least one of a ball and a pin". The Applicants respectfully traverse these rejections, but have made amendments to Claims 5 and 6 to clarify the relationship of the elements.

With respect to Claim 5, which depends on Claim 1 the Applicants respectfully submit that Claim 1 recites "a ball" and "a pin", which provide appropriate antecedent basis for the recitation "the at least one of the ball and the pin" in Claim 5. With respect to Claim 6, which is dependent on Claim 1, the recitation of "a ball" and "a pin" is interpreted by the Federal Circuit as meaning one or more. Claim 6 has been amended to positively recite multiple balls and pins.

In view of the clarifying amendments and these remarks, the applicants respectfully request that the rejections be withdrawn.

35 U.S.C. §102 (b)

Claims 1-19 were rejected, under 35 U.S.C. §102 (b) as being anticipated by Levin et al. (US 6,154,201: "Levin").

The Applicants believe that the arguments presented previously are correct, and they are maintained. The Examiner's rebuttal is respectfully traversed, and the case law cited below is on point. The Examiner asserts that "using the action of the operator in Levin's device does not preclude the use of Levin to reject the claimed invention" (Office action, page 5). But, in *In re Bernhart*, 417 F2d. 1395, 1399, 163 USPQ 611, 615 (CCPA 1969) the court stated:

We know of no authority for holding that a human being, such as a draftsman, could ever be the equivalent of a machine disclosed in a patent application, and we are not prepared to so hold in this case.

That is, a human action such as applying a force, or turning a knob, cannot be substituted for an element or limitation of an apparatus which performs that function. Hence, for Claim 1 to be anticipated, the machine itself in Levin would have to perform the actions required without human intervention, but the Examiner relies on forces and motions of the operator to provide elements and limitations for the rejection of Claim 1.

Further, in view of the Examiner's response, where additional elements of Levin are cited in the present Office action, for example at page 3, lines 4-5, the Applicants re-state and amplify on the traversal made in the previous response.

The Examiner identifies a knob (18) as the actuator (by pushing on the knob 18), whereas Levin identifies two elements, the knob (18) and the actuator (70). (Levin, col. 7 line 57 and col. 9 line 58). Since they are two different elements, it is at best ambiguous for the Examiner to refer to the knob as an actuator in the sense taught by Levin. Further, the Examiner asserts that the actuator (by [the operator] pushing the knob 18) positions the ball (84) to contact one of the disk or the cylinder.

Element 84, shown in Fig. 4B and 4C as a flat surface on a stamping (85) which is deformed to form the flexible coupling (82), and is not described or drawn by Levin as a ball, nor would it comport with any dictionary definition of a ball. Indeed, Levin does not use the word "ball" at all. So any suggestion that element 82 is a ball must come from a suggestion made in the present application; the Applicants respectfully submit that they have not described the structure taught by Levin. A pin (50) is said to be

elastically forced to contact one of the disk and the cylinder. The elements are not identified by number in the citation of the reference. The Applicants can only speculate as to the associations. *Arguendo*, the actuator is the cylinder 70, however the pin (50) is not elastically forced into contact with the actuator (70). *Arguendo*, the actuator is switch (90), and the pin (50) is threaded through the center thereon. It is only possible to bring the pin (50) in contact with the switch (90) by the application of an external force by an operator to the knob (18).

The Examiner identifies element (52) as a disc and element (54) as plural feeling patterns. In contrast, Levin identifies (52) as a switch and (54) as output leads (column 8, lines 32-40, Id.). The output leads (54) are fixed to the portion of the switch attached to the front panel (12), rather than the shaft (50) as suggested by the Examiner, and (50) is a shaft rather than a pin. In order for the shaft (50) to contact the portion of the switch (54) that is attached to the front panel (12), the operator must provide the force. The shaft cannot contact the switch (54) or the switch (90) in Levin except in response to a force exerted by the operator.

For at least the reasons given above, Levin does not teach all of the elements of Claim 1, nor the arrangement thereof, a *prima facie* case of anticipation has not been made out, and the claim is allowable.

Claims 5, 6 and 7 are independently patentable. The Examiner identifies element 52 as a disc and element 54 as plural feeling patterns. In contrast, Levin identifies 52 as a switch and 54 as output leads (column 8, lines 32-40, Id.). The output leads are 54 are fixed to the portion of the switch attached to the front panel 12, rather than the shaft 50 as suggested by the Examiner, and 50 is a shaft rather than a pin. In order for the shaft 50 to contact the portion of the switch 54 that is attached to the front panel 12, the operator must provide the force. Operator action is not an integral part of the structure, so the shaft cannot contact the switch in Levin except in response to a force exerted by the operator. As such, the Examiner has not made out a *prima facie* case of anticipation, which would require that all of the elements and the arrangement thereof be shown in Levin. Claims 5, 6, and 7 are also allowable as claims dependent on allowable Claim 1.

Although the Applicants' believe that valid reasons exist for the independent patentability of the remaining claims, it suffices that Claims 2-4 and 8-17 are dependent on Claim 1 and are allowable, without more. Independent Claims 18 and 19 recite at least the elements and limitations contained in Claim 1 and are allowable for the same reasons.

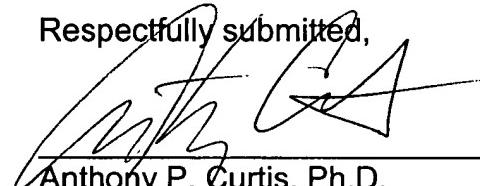
Conclusion

Claims 1- 19 were pending; Claims 5, 6, 15 and 19 have been amended. Claims 1-19 are now pending.

For at least the reasons given above, the Applicants respectfully submit that the pending claims are allowable.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,



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